

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

POST SUMMARY MINUTES

PRESENT: Chairman Eldrin Bell, Vice-Chairman Wole Ralph, Commissioner Sonna Singleton, Commissioner Michael Edmondson, Commissioner Gail B. Hambrick, and Clerk Shelby D. Haywood.

1. Chairman Bell called the meeting to order.
2. Invocation was led by Rev. Dr. Wesley E. Greene, Sr. of Amazing World Outreach Church in Forest Park, Georgia. Pledge of allegiance to the flag was led by Chairman Bell.
3. Amended the agenda by deleting item #5 (CLAYTON COUNTY GOVERNMENTAL FINANCE CORPORATION: Consideration of Resolution 2011-103 – Resolution of the Clayton County, Georgia Governmental Finance Corporation 2009 Trane Performance Contract) and item #6 (Resolution 2011–104 – Authorizing the refinancing of a certain equipment lease/purchase agreement entered into in 2009 with respect to the acquisition, purchase, financing, and leasing of certain energy savings and conservation equipment; Authorizing the execution, delivery and performance of a lease addendum to provide for such refinancing of the purchase of equipment and the leasing of such equipment to the County; Authorizing the execution, delivery and performance of an escrow agreement; Authorizing the execution and delivery of certain other related documents required in connection therewith; Authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and for other purposes). The agenda was adopted, as amended, as all commissioners had copies before them. Vote unanimous.
4. Approved the June 29, 2011 Special Called Meeting to Adopt the FY-2012 Annual Operating Budget and the July 5, 2011 Regular Business Meeting minutes. Vote unanimous.

NOTE : Staff Attorney Christie Barnes presented the following resolutions and ordinance which resulted in these actions:

5. Approved Resolution 2011-107, A Resolution authorizing the imposition of a 9-1-1 charge on prepaid wireless service at the retail point of sale as authorized by the Official Code of Georgia Annotated, as amended by Act No. 187, Georgia Laws 2011, Part 4 of Article 2 of Chapter 5 of Title 46; to authorize the Chairman to execute all documents and otherwise to perform all other acts necessary to accomplish the intent of the resolution, etc. Vote unanimous.
6. Approved Resolution 2011-108, A Resolution authorizing Clayton County to apply for and enter into a grant agreement with the Bureau of Justice Assistance Edward Byrne Memorial

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

Justice Assistance Grant 2011-BJA-3031, in the amount of \$133,788.00 with no matching county funds. Vote unanimous.

7. Approved Resolution 2011-109, A Resolution authorizing an increase in the Emergency Medical Services Fees charged to the recipient of such services; to authorize the Chairman to execute any necessary documents necessary to accomplish the intent of the resolution; to authorize the Finance Director to amend the budget where necessary to reflect an appropriate revenue source and expense, and to transfer any required match of local funds, all as may be required under the terms of this resolution. Vote unanimous.

At this time, Commissioner Edmondson made a motion to amend the agenda to delete item #10 (Ordinance 2011-110 regarding the creation of a County Manager position) from the Board's consideration or from a first (1st) reading this evening. He had recently spoken to several Clayton County Legislative members, including Chairman Roberta Abdul-Salaam and Representative Glenn Baker. Commissioner Edmondson stated there are hopes that the assembly resolution which the Board passed earlier might go through legislation during the Summer Special Session of the House. Chairman Bell seconded the motion for the purpose of discussion. He next asked if there were any questions, concerns, comments or statements. There was no response from the Board. Finally, Chairman Bell asked for the ayes and nays. The motion carried 3-2 to deny Commissioner Edmondson's request for deletion of item #10. Vice-Chairman Ralph, Commissioner Singleton, and Commissioner Hambrick voted in opposition. Chairman Bell and Commissioner Edmondson voted in favor. For the record, Chairman Bell stated this motion failed due to a lack of a complete motion.

8. Approved Ordinance 2011-110, An Ordinance to create an unclassified position of County Manager pursuant to O.C.G.A. § 36-5-22; to provide for the duties of the County Manager; to provide an effective date; and for other purposes. The motion carried 3-2 in favor of this ordinance. Vice-Chairman Ralph, Commissioner Singleton, and Commissioner Hambrick voted in favor. Chairman Bell and Commissioner Edmondson opposed. **NOTE: A lengthy discussion ensued about this ordinance after all motions were made on the items presented by Staff Attorney Barnes. That discussion is listed after the approval of the last resolution (Resolution 2011-111).

9. Approved Resolution 2011-111 authorizing the disposition of an unserviceable 1995 FL80 Fire Engine from the Clayton County Fire and Emergency Services Department to be donated to the Town of Oconee Volunteer Fire Department; to accept a donation from the Town of Oconee Volunteer Fire Department on behalf of the Clayton County Fire and Emergency

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

Services Department of a 1975 Seagrave Custom Pumper. Vote unanimous.

**** DISCUSSION REGARDING ORDINANCE 2011-110:**

For clarification, Commissioner Edmondson asked if the Board's action today on Ordinance 2011-110 constituted a first (1st) reading. He recalled there was an issue regarding this ordinance at the last regular business meeting. Commissioner Edmondson deferred to Clerk Haywood to answer his question. Ms. Haywood replied that apparently a change had occurred since the ordinance had been announced in the July 5, 2011 business meeting as coming back to the July 12, 2011 business meeting as a first reading. Instead, this ordinance came back today as a creation of a job (County Manager) with a job description and provision of duties. Ms. Haywood stressed that Ordinance 2011-110 was not presented to the Board today as a first (1st) reading of a home rule powers ordinance change but, rather, as a regular ordinance to be considered for approval. Commissioner Edmondson stated that no one had talked to him about this position, so he did not know anything about it.

To clear up any confusion, Vice-Chairman Ralph asked Attorney Jack Hancock to briefly speak to the constitutionality of creating this County Manager position via an ordinance.

Attorney Hancock apprised the Board that the legislature has enacted two (2) methodologies by which a local government can create a position such as this. One methodology would be under Home Rule Powers which requires two (2) readings and publication. The second methodology would be O.C.G.A. § 36-5-22 which is a legislative enactment providing the authority for a local government to create a County Manager position and to vest in that position the administrative powers. Per Attorney Hancock, the Supreme Court of Georgia has found the aforementioned section to be constitutional and to run parallel with the authority granted to a Board of Commissioners under a Home Rule Act. Essentially, the County Manager position can be created either way. This Board previously created a Chief of Staff position under Home Rule because, as a part of that legislation, the Board abolished the position of County Administrator (provided for under the charter or under a county organizational act). In order to amend that, the Board had to proceed under Home Rule. It had been originally discussed that the creation of this position would abolish the Chief of Staff. This legislation, however, does not abolish the Chief of Staff position; therefore, it is not necessary that it proceed under Home Rule. It can proceed under O.C.G.A. § 36-5-22, and that is what the Supreme Court of Georgia upholds – so that accounts for the distinction. Attorney Hancock added he did not believe the county organizational act required two (2) readings of an ordinance. He emphasized this is not an ordinance under Home Rule; it is an ordinance under O.C.G.A. § 36-5-22.

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

Vice-Chairman Ralph surmised that the legislature has given county governments authority to proceed in this manner. Attorney Hancock replied that this is correct, and the courts have found that legislation to be constitutional.

Commissioner Edmondson stated he knew this Board had asked Attorney Hancock to research this issue, and Attorney Hancock had not had an opportunity to present his findings to this Full Board. Since he was not privy to those conversations, he wondered if the O.C.G.A. and Supreme Court upholding that Attorney Hancock had referenced intentionally changed the form of government in Clayton County. Attorney Hancock answered no. Commissioner Edmondson said he understood the Board was creating a County Manager, which is a form of government, as opposed to a “strong Chair” and then vesting it with the administrative powers that the county’s “strong Chair” has.

Attorney Hancock disagreed with Commissioner Edmondson and affirmed that this is not what the Supreme Court of Georgia has stated in finding this code section to be constitutional. The Supreme Court has stated it is not a change in the form of government. It is merely creating an administrative position which the ordinance permits. If the ordinance had permitted the vesting of executive authority within a County Manager position, then it would in fact be a change in the form of government. This ordinance, however, simply provides for the creation of a County Manager position. Attorney Hancock also noted that the statute of O.C.G.A. § 36-5-22 has been specifically challenged on the grounds Commissioner Edmondson had raised, and the Supreme Court of Georgia has upheld it as being constitutional. He acknowledged this is the first time he had advised any of the Board members about this matter. The language that the Supreme Court of Georgia used was exactly what he had explained to the Board. This court found that the legislature creating § 36-5-22 or enacting §36-5-22 ran parallel with the authority contained in the constitution that allows a county to act under Home Rule.

Commissioner Edmondson expressed his appreciation to Attorney Hancock for the latitude to explore this subject since he had not had an opportunity to do so before today. He next asked Attorney Hancock to elaborate specifically on the executive authorities vs. the administrative authorities. From conversations he has had with Attorney Hancock and ACCG in the past, this county currently has a “strong Chair” form of government, and the Chairman is the Chief Executive and Administrator of this county’s government. In that context, through Home Rule, the Board created the Chief of Staff position two and a half years ago. Attorney Hancock agreed that Commissioner Edmondson was correct. Commissioner Edmondson further stated that the Board is not replacing that Chief of Staff position, and the reason that idea worked was because the Chief of Staff directly reported to the county’s “strong Chair.” Attorney Hancock affirmed that the newly created County Manager position does not replace anyone. Commissioner

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

Edmondson reiterated that this is why the Chief of Staff position worked because it did not usurp any powers or change the form of government through its creation. The Board simply created an administrative middle manager when it created the Chief of Staff. Attorney Hancock questioned if Commissioner Edmondson meant that the Chief of Staff position worked because it was appropriate under the law for the Board to create that position. Commissioner Edmondson answered that this is what he meant. Attorney Hancock agreed that Commissioner Edmondson was correct in his understanding. The Chief of Staff had exclusively administrative authorities; it had no executive authorities. Commissioner Edmondson added that the Chief of Staff reported directly to the Chair. The difference he saw was that the County Manager position being presented to the Board tonight will have the exact same exclusively administrative functions, but it will not be reporting to the county's Chief Executive and Administrative entity which is the "strong Chair" Clayton County currently has. Attorney Hancock replied that Commissioner Edmondson's assumption was correct in that the duties are the same and the position, as created by this ordinance, will report to the Board.

To get back to the business at hand, Chairman Bell stated that the Board had been given all of the resolutions (including this ordinance) – except those that were pulled – and the Board had given a motion and a second. Questions had been asked and answered; therefore, this was a time to give the ayes and nays. The motion carried unanimously for all of the resolutions and 3-2 in favor of the one ordinance presented (Ordinance 2011-110 – Creation of a County Manager position). Vice-Chairman Ralph, Commissioner Singleton, and Commissioner Hambrick voted in favor of Ordinance 2011-110. Chairman Bell and Commissioner Edmondson opposed Ordinance 2011-110.

Staff Attorney Christie Barnes requested an Executive Session following the business meeting to discuss real estate and litigation matters. Chairman Bell acknowledged that the Board agreed to Attorney Barnes' request.

PUBLIC COMMENT

1. Ric Latarski waived his right to speak before the Board.
2. Sonja Sleeper, a Jonesboro resident, first commented on the Trane contract that the Board pulled from this business meeting. She requested that the Board renegotiate this contract before signing it because the contract is for services to maintain units. The Board may want to consider training its staff to service those units, especially since the county already has a maintenance department (Building & Maintenance). Ms. Sleeper next objected to the Police Department applying for the Edward Byrne Memorial Justice Assistance Grant to purchase motorcycles for a

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

newly created motorcycle unit. If the county is going to impose increased taxes on the residents to meet its expenses, then it should not have to increase expenses. The county should not be doing that if it wants to justify raising taxes to 5 mills for the residents. Regarding EMS fees, Ms. Sleeper understood there was a separate line item for EMS services in the budget. She had asked Commissioner Edmondson to explain what those fees were because people who are sent to the hospital do not pay for those services. If those fees are a line item in the budget, and they are coming out of the residents' property taxes, she did not understand why the county is charging residents EMS fees. Ms. Sleeper further stated that even if the county says renters do not pay property taxes, they actually do when they pay rent to the landlord because the landlord pays the taxes. The county is either charging EMS fees in the budget to cover the cost of EMS services or it is charging fees, not both, or the county should find a way to combine them. Ms. Sleeper opined that it is not fair to the people to charge them twice for something, whether they use the ambulance or not. She also noticed that some of the county commissioners have banners affixed to the public recreation centers; i.e., Carl Rhodenizer Recreation Center and Jim Huie Recreation Center. Commissioner Edmondson has one but it does not have a meeting date on it. It just says "Meet with your Commissioner." Ms. Sleeper felt the commissioners should either pay rent to the county for that or they should remove those banners because, if citizens as a political group cannot distribute banners or have meetings at those recreation centers (even if they paid a fee), then neither should a commissioner. Commissioners should either find a private meeting place to meet with their constituents or everybody should be able to distribute political/group literature at such centers. Lastly, Ms. Sleeper questioned why the Board had public comment after the business meeting when all motions had been approved. She believed that public comment should be heard before the Board voted on the motions just in case the public had an opinion about an agenda item.

3. Wayne Madden felt that the Board's decision to create a County Manager was very silly. The county has a budget problem and all this person will do is filter stuff from the Chairman. Mr. Madden opined that such action is crazy. On another issue, Mr. Madden proceeded to inform the Board that he lived in River's Edge Plantation and he had talked to a friend of Vice-Chairman Ralph (who happens to be the property manager). Mr. Madden told this person he did not understand why police were present in the budget meetings where county citizens were present. He was informed that they served as props. Before Mr. Madden could talk further, Chairman Bell cautioned him not to make any personal attacks on a commissioner. Mr. Madden responded that he was not making a personal attack on a commissioner. Now he understood why some police departments do not allow their officers to work off-duty, and it puts the county in a financial bind. Mr. Madden expressed that he was very upset about this. He added that several

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

code violations had taken place in his subdivision and the police should go over there to correct these problems. Mr. Madden extended a personal invitation for Vice-Chairman Ralph to visit the River's Edge Subdivision.

4. Mr. Carl Swensson, a Morrow resident, showed the Board a small graph which represented the gross U.S. domestic product and what the governments are doing to the citizens right now. Currently, this record pace is snagging about 40% of the gross domestic product. It appears that Clayton County is falling in step with what the federal government is doing. This county is marching headlong into socialism, Marxism, and the desert that this Board's actions create. Instead of cutting back on the services, this Board is spending more. The county has a deficit that is outrageous for its size and yet he did not see or hear any cuts being proposed. All he has heard is the birthing of another position to the tune of another \$100,000.00. That amount may not seem like much in the grand scheme of things, but \$100,000.00 here and there adds up. This Board needs to "get real" and the people expect this Board to "get real" with them. The only way this can be accomplished is to make hard-fast decisions to provide the services that this county needs; i.e., sanitation, infrastructure, police, and fire. The county, however, is funding other things. There is a lot of fat that could have been cut and should be cut, but it is not up to debate. As a matter of fact, tonight proves that decisions are rendered without any public opinion. Citizens are not given a chance because the County Manager document was already signed off prior to giving citizens an opportunity to say anything about it. Mr. Swensson voiced that this county is headed toward disaster. The Board can either be a part of the solution or it can be a part of the problem. Personally, he wanted his country back. This is a constitutional republic, and the commissioners are not rulers – they are public servants. The citizens put the commissioners in place to do a job, and that job was to serve the people of Clayton County by making the hard-fast decisions that the commissioners have to make in the budget and all of these other things that the Board tried to do that add money.

Motion by Vice-Chairman Ralph, second by Commissioner Singleton, to go into Executive Session in the Commissioners' Conference Room at 7:45 p.m. to discuss real estate and litigation matters. Vote unanimous.

Motion by Vice-Chairman Ralph, second by Commissioner Singleton, to go out of Executive Session at 8:45 p.m. Vote unanimous.

Motion by Vice-Chairman Ralph, second by Commissioner Singleton, to reconvene the Regular Business Meeting in the Commissioners' Boardroom at 8:45 p.m. Vote unanimous.

Vice-Chairman Ralph asked Theodis Locke, Assistant Director of Human Resources, to present his findings to the Board regarding a salary survey on the County Manager position. He also

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

requested that Mr. Locke inform the Board of the salary range for that position. Mr. Locke stated that Renee Bright, Director of Human Resources, recommended that the salary should start from \$140,000.00 to \$150,000.00. She had done a comparative survey of county managers in ten (10) jurisdictions. From that survey, Ms. Bright ascertained that the average salary for such a position was \$162,000.00. Ms. Bright believed that the range of \$140,000.00 to \$150,000.00 was a good start. Vice-Chairman Ralph asked Chairman Bell if the county could direct Human Resources to post/advertise for the County Manager position. Commissioner Edmondson asked Vice-Chairman Ralph if he were speaking on behalf of the Board or asking for Board consensus. Vice-Chairman Ralph stated he was asking the Chairman and he was asking the county attorney if a motion needed to be made to carry out this request. Staff Attorney Barnes answered that a motion would be appropriate in this case.

Motion by Vice-Chairman Ralph, second by Commissioner Singleton, to direct Renee Bright, Director of Human Resources, to post/advertise the County Manager position with the salary range ascertained through a comparative county manager salary survey. The motion carried 3-2. Chairman Bell and Commissioner Edmondson opposed.

Vice-Chairman Ralph questioned if Chairman Bell and Commissioner Edmondson opposed the county posting/advertising the County Manager position. Chairman Bell answered that the vote had already carried 3-2. Since the vote carried, the position will be posted. He did not care to explain his vote.

Commissioner Edmondson wondered about the timing of posting this position prior to the adoption of the millage rate. No Board member responded to his query.

Vice-Chairman Ralph next asked Attorney Hancock how to proceed with the language on the proposed Tara Field real estate transaction. Attorney Hancock stated that the language would be if it is the desire of this Board to authorize the entry by the county into the intergovernmental purchase/sale agreement, then the Board will need a motion approving that purchase/sale agreement and authorizing the Chairman to execute it on behalf of Clayton County upon its approval by Henry County.

Vice-Chairman Ralph asked Chairman Bell if he wanted to make a motion on the language presented by Attorney Hancock. Chairman Bell said no. Vice-Chairman Ralph was already making the motion. He asked if there were a second. Vice-Chairman Ralph said he would second the motion. Chairman Bell rebutted that he did not make the motion. Commissioner Edmondson interjected that he would make the motion. Chairman Bell again asked if there were a second to Commissioner Edmondson's motion. No one responded. Hearing no response, Chairman Bell seconded the motion. Vote unanimous. For the record, this vote stands as:

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

July 12, 2011

Motion by Commissioner Edmondson, second by Chairman Bell, to authorize the County to enter into an intergovernmental purchase/sale agreement regarding the Tara Field real estate transaction and to authorize the Chairman to execute it on behalf of Clayton County upon its approval by Henry County. Vote unanimous.

There being no further business to discuss, motion by Vice-Chairman Ralph, second by Commissioner Singleton, to adjourn the Regular Business Meeting of July 12, 2011. Vote unanimous.